Private Funds
Alert

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Annual Compliance Obligations Applicable to Private Fund Sponsors

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Private equity fund sponsors are subject to a number of routine regulatory and compliance obligations, including, but not limited to: making and updating certain filings and reports with the U.S. Securities and Exchange Commission (SEC) and other U.S. federal and state regulators; reporting information to advisory clients and investors; causing clients to undergo a surprise examination or internal audit; and reviewing the sponsor's offering materials, compliance policies and procedures and employee activities. To assist our clients with these requirements, this memo summarizes important upcoming regulatory filings and compliance obligations in 2024.[1]

FORM ADV

(Annual Amendment due by March 30, 2024)

Investment advisers that are registered with the SEC under the Investment Advisers Act of 1940 (Advisers Act), and advisers filing as exempt reporting advisers with the SEC, must file an annual amendment to Form ADV within 90 days of the end of their fiscal year (*i.e.*, by March 30, 2024[2] for advisers with a fiscal year-end of December 31).[3] Given the number of advisers with December 31 fiscal year-ends and the usual Q1 rush to file on the date of the filing deadline, advisers are encouraged to file early if possible. Advisers are also reminded to fund their IARD accounts in advance of filing their Form ADV annual amendment so that there are sufficient funds on account with IARD to submit the amendment.

Registered investment advisers must file an updated Part 1 and Part 2A brochure of such adviser's Form ADV, while exempt reporting advisers must file an updated Part 1. Registered investment advisers are also required to update, but are not required to file with the SEC, Part 2B brochure supplements of their Form ADV. In addition, registered investment advisers are required to provide a copy of the updated Form ADV Part 2A brochure (or a summary of changes with an offer to provide the complete brochure) and, in certain cases, an updated Part 2B brochure supplement to each client.

[1] Please note that, in 2024, certain filing and compliance deadlines applicable to private equity fund sponsors (*e.g.*, Form ADV, Form PF, etc.) fall one day prior to their traditional dates due to the leap year. Additionally, please note that certain deadlines shown herein are calculated based on the assumption that the adviser has a fiscal year-end of December 31.

[2] Form ADV is submitted through FINRA's IARD electronic filing system, which accepts filings made on weekends until 6pm ET. Accordingly, while the March 30 deadline falls on a Saturday in 2024, Form ADV filings made on March 30 by 6pm ET will be considered timely. Note that the Form ADV annual amendment deadline will not be extended to Monday April 1st.

[3] In addition, an investment adviser must update its Form ADV promptly if certain information becomes inaccurate as indicated in the instructions to Form ADV.

FORM PF

(Annual Filing due by April 29, 2024, Quarterly Filings due 60 days after the end of each fiscal quarter during which a trigger event occurred)

Registered investment advisers to private equity funds with more than $150 million of assets under management attributable to those funds (as of the last day of their most recent fiscal year) (Private Equity Fund Advisers) are required to file Form PF with the SEC within 120 days after such adviser's fiscal year-end (*i.e.*, by April 29, 2024 for advisers with a fiscal year-end of December 31).[4] Form PF requires disclosure of the adviser's assets under management and information on each private fund it advises.

In connection with the SEC's recently adopted amendments to Form PF, as of December 11, 2023, Private Equity Fund Advisers are required to file an "event report" upon the occurrence of one or more trigger events within 60 days of each fiscal quarter-end.[5] Such trigger events include the occurrence of an adviser-led secondary transaction, as well as the removal of a general partner and investor elections to terminate a fund or its investment period. Event reports will **not** be required for any quarters where trigger events did not occur.

COMMODITY FUTURES TRADING COMMISSION (CFTC) FILINGS

(Annual Affirmation of De Minimis and Commodity Trading Advisor Exemptions due by February 29, 2024)

Many private equity fund sponsors are able to rely on the exemption from registration as a commodity pool operator with the National Futures Association (NFA) that is available under CFTC Rule 4.13(a)(3) (the *de minimis* exemption) and have claimed such exemption. The *de minimis* exemption is subject to an annual affirmation which must be completed within 60 days after the end of each calendar year. Failure to affirm the exemption is deemed a withdrawal of the exemption once the 60 day period has elapsed. The annual affirmation must include a representation that neither the sponsor nor any of its "principals" are subject to certain statutory disqualifications. Private fund sponsors that do not qualify for the *de minimis* exemption may be subject to registration with the NFA as commodity pool operators.

In addition, many fund managers rely on the "solely incidental" exemption from registering as a commodity trading advisor pursuant to CFTC Rule 4.14(a)(8). An annual affirmation of this exemption is also required to be filed within 60 days after the end of each calendar year.

CUSTODY RULE

(Distribution of Audited Financial Statements due by April 29, 2024)

Registered investment advisers to private funds must comply with certain custody procedures, including generally maintaining client funds and securities with a qualified custodian and either (i) causing client assets to undergo an annual surprise examination conducted by an independent public accountant or (ii) obtaining an audit of each private fund by an independent public accountant and delivering the audited financial statements, prepared in accordance with generally accepted accounting principles, to fund investors within 120 days of the fund's fiscal year-end (*i.e.*, by April 29, 2024 for funds with a fiscal year-end of December 31). Private fund sponsors should review their custody procedures to ensure compliance with these rules.

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[4] Please note that certain large "hedge fund" advisers and "liquidity fund" advisers are subject to more frequent and extensive reporting requirements and shorter deadlines.

[5] A previous alert discussing the SEC's amendments to Form PF can be found here.

NEW – BENEFICIAL OWNERSHIP INFORMATION REPORTING

In connection with the Financial Crimes Enforcement Network's (FinCEN) final rule implementing the beneficial ownership information (BOI) reporting requirements under the Corporate Transparency Act, effective January 1, 2024, certain (a) U.S. domestic companies and (b) foreign companies that are registered to do business in a U.S. state (together, Reporting Companies) will be required to report BOI with respect to (i) any natural persons who directly or indirectly own or control at least 25% of, or otherwise exercise "substantial control" over, a Reporting Company (Beneficial Owners) and (ii) certain individuals who file corporate documents for Reporting Companies with state authorities.[6] While the categories of entities considered Reporting Companies are broad, the final rule contains a number of exemptions applicable to the private fund industry. Many private funds, their advisers and related entities are excused from BOI reporting, including: (i) registered investment advisers, their relying advisers and fund general partners; (ii) venture capital fund advisers filing with the SEC as exempt reporting advisers (but NOT other exempt reporting advisers); (iii) U.S. private funds managed by an exempted investment adviser and listed on such adviser's Form ADV; (iv) most fund portfolio companies; (v) controlled or wholly-owned subsidiaries of certain exempted entities; and (vi) foreign entities not registered to do business in the U.S.

Investment advisers should note, however, that certain of their affiliates, as well as some entities included in fund structures (*e.g.*, blocker and aggregator entities, and other special purpose vehicles, that are not controlled or wholly-owned by other exempt entities), likely will be required to submit BOI reports to FinCEN.

Where no reporting exemptions apply, Reporting Companies are required to file BOI reports with FinCEN disclosing identifying information for (i) each of their Beneficial Owners and (ii) the individual who directly files the document that creates a domestic entity or that registers a foreign entity to do business, as well as the individual that is primarily responsible for directing such filing.

Reporting Companies formed on or after January 1, 2024 are required to submit an initial BOI report within 90 days of being formed or registering to do business in the U.S. Reporting Companies existing prior to January 1, 2024 have until January 1, 2025 to file an initial report. Additionally, Reporting Companies have 30 days to (i) report updates to their initial filings and (ii) correct inaccurate information included in prior filings once the Reporting Company becomes aware, or has reason to know, of the inaccuracy of information in earlier reports.

ANNUAL REVIEW OF COMPLIANCE POLICIES AND PROCEDURES

Registered investment advisers are required to perform a review to assess the adequacy of the adviser's compliance policies and the effectiveness of their implementation and, if necessary, to update their compliance policies and procedures on an annual basis. In determining the adequacy of an annual review, the SEC has indicated that it will consider a number of factors, including the persons conducting the review, the scope and duration of the review and the adviser's findings and recommendations resulting from the review. As part of the SEC's recently adopted Private Fund Advisers Rules, registered investment advisers are required to document the annual review **in writing**.[7] Such written documentation evidencing the results of the annual review should be kept and reviewed by the adviser's chief compliance officer, senior management and, if applicable, outside counsel. Employee compliance training should also be conducted at least annually based on the results of the compliance review.

[6] A previous alert discussing FinCEN's final rule implementing the BOI reporting requirements under the Corporate Transparency Act can be found here.

[7] A previous alert discussing the SEC's new Private Fund Advisers rules can be found here.

ACCESS PERSONS HOLDINGS REPORT

Registered investment advisers must require "access persons"[8] to submit reports of their current securities holdings (and those of their immediate family members) at the time they become an access person and at least once annually thereafter to the investment adviser's chief compliance officer. The information in such reports must be current as of a date no more than 45 days prior to the date the report was submitted.

ANNUAL ACKNOWLEDGEMENT OF RECEIPT OF CODE OF ETHICS

Registered investment advisers must require their supervised persons to provide the investment adviser with a written acknowledgement on an annual basis of their receipt of the adviser's Code of Ethics and any amendments.

REVIEW OF OFFERING MATERIALS

As a general disclosure matter, and for purposes of U.S. federal and state anti-fraud laws, an investment adviser must continually ensure that each of its fund offering documents is kept up to date, is consistent with its other fund offering documents and its Form ADV and contains all material disclosures that may be required in order for investors to be able to make an informed investment decision.

Accordingly, it may be an appropriate time for an investment adviser to review its offering materials (including investor newsletters and pitch books) and confirm whether any updates or amendments are necessary. In particular, an investment adviser should take into account the impact of recent market conditions on its funds and review its current disclosure regarding: investment objectives and strategies; valuation practices; performance and related disclaimers (including Advisers Act marketing rule compliance[9]); any mention of specific investments to confirm that there are no "cherry picking" issues; conflicts of interests; risk factors; personnel; service providers; "bad actor" disclosures; and any relevant legal or regulatory developments. In light of the SEC's continuing focus on the allocation of private fund fees and expenses and conflicts of interest, advisers must take special care in reviewing their practices and disclosure in these areas.

CERTAIN FILINGS REQUIRED UNDER THE SECURITIES EXCHANGE ACT OF 1934

Form 13F
The Securities Exchange Act of 1934 (Exchange Act) requires investment advisers (whether or not registered) to submit a report on Form 13F to the SEC, within 45 days after the last day of any calendar year and within 45 days after the last day of each of the next three calendar quarters following such calendar year, if on the last day of any month of such calendar year the investment adviser exercised discretion with respect to accounts holding Section 13(f) securities (generally, publicly traded securities) having an aggregate fair market value of at least $100 million (institutional investment managers). Note that the SEC has proposed, but not yet adopted, an amendment increasing this threshold to $3.5 billion.

[8] Access persons are any of the adviser's supervised persons who (i) have access to nonpublic information regarding any advisory client's purchase or sale of securities, or nonpublic information regarding the portfolio holdings of any reportable fund, or (ii) are involved in making securities recommendations to clients, or have access to such recommendations that are nonpublic. An adviser's directors, officers and partners are generally presumed to be access persons.

[9] As a reminder, any use of "hypothetical performance" (*i.e.*, performance results that were not actually achieved by any portfolio of the adviser) requires, among other things, the adoption and implementation of compliance policies and procedures reasonably designed to ensure that the hypothetical performance is relevant to the likely financial situation and investment objectives of the intended audience of the advertisement.

Form 13H
An investment adviser that is a "large trader" (*i.e.*, it engages in transactions in National Market System securities equal to or in excess of two million shares or $20 million during any calendar day, or 20 million shares or $200 million during any calendar month) must promptly (within 10 days) file an initial Form 13H after effecting aggregate transactions equal to, or greater than, the applicable activity level. Following this initial filing, all large traders must make an amended filing to update any previously-disclosed information that becomes inaccurate no later than promptly (within 10 days) following calendar quarter-end and must separately file an annual amendment within 45 days after calendar year-end.

NEW – Form N-PX
Effective July 1, 2024, Exchange Act Rule 14Ad-1 will require institutional investment managers that file Form 13F to report their votes on executive compensation matters (*i.e.*, "say-on-pay" votes), including votes on the approval of executive compensation and on the frequency of such executive compensation approval votes, as well as votes to approve "golden parachute" compensation in connection with a merger or acquisition, on Form N-PX when they exercise their voting power with respect to a security. Advisers that are in scope will be required to file their first reports by August 31, 2024, such reports to cover the period from July 1, 2023 to June 30, 2024.

PRIVACY POLICY NOTICE

Investment advisers and private funds are subject to SEC, CFTC, Federal Trade Commission and, in certain circumstances, State regulations governing the privacy of certain confidential information of individual investors. Under such privacy rules, investment advisers and private funds are required to provide notice to individual investors regarding their privacy policies and procedures at the start of the relationship with such individual investor (although they are generally no longer required to provide an annual privacy notice to such investors unless material changes have been made to the policy).

FORM D AND BLUE SKY FILINGS

Form D filings for private funds with ongoing offerings lasting longer than one year need to be amended on an annual basis, on or before the first anniversary of the initial Form D filing. Potential investors can obtain copies of Form D via the SEC's website. On an annual basis, private fund sponsors should also review their blue sky filings for each state to make sure they meet any renewal requirements. In some states, fees apply for late blue sky filings.

BAD ACTOR RULES

Rule 506(d) of Regulation D under the Securities Act of 1933 prohibits a private fund from relying on the safe harbor private placement exemption contained in Regulation D if the fund, or certain specified persons or entities associated with the fund, are subject to disqualifying events as a result of bad acts. It is imperative for private fund sponsors that intend to rely on Regulation D to identify all persons and entities subject to the rule and conduct appropriate due diligence (including receiving written certifications) to ensure that none are subject to disqualification. In addition, for funds that are engaging in continuous and/or long-term offerings, the diligence should be periodically refreshed.

STATE LOBBYIST REGISTRATIONS

Private fund sponsors should look at each state in which a public entity or a public employee retirement plan is an investor or a potential investor to determine if the investment adviser or its personnel are required to register as lobbyists. This may require engaging local counsel with knowledge of state and municipal laws and regulations.

ANNUAL VCOC/PLAN ASSETS CERTIFICATIONS

Many private equity funds limit “benefit plan investors” to less than 25% of any class of equity interest in a fund (the 25% test) so that such fund’s assets are not deemed “plan assets” subject to the U.S. Employee Retirement Income Security Act of 1974 (ERISA), and some private equity fund sponsors have agreed to provide an annual certification to that effect. Such certification generally can be made at any time during the year, but typically investors wish to have a certification made as of a specified annual date, often as of the end of the year, for convenience. Such certifications must take into account the impact of transfers and withdrawals of fund interests during the applicable period, as well as the impact of different ownership percentages of any alternative investment vehicle, or investments, due to excuse and exclusion.

Other private equity funds operate as “venture capital operating companies” (VCOCs), and may have agreed to deliver an initial opinion and annual certification as to the fund’s VCOC status. Such certification requires a determination as to whether at least 50% (based on cost) of the fund’s total investments (excluding cash and other temporary investments) constitute “good” venture capital investments during the 90-day valuation period applicable to the fund. Information regarding the cost of each investment held by the fund on one day during the applicable 90-day period, and confirmation of the management rights required for any “good” investment, should be gathered in preparation for such certification or opinion. The 90-day valuation period should be established by the fund in connection with its initial investment. The timing of providing the certification is usually tied to the end of the 90-day period, often 60 days following the end of such period. Fund sponsors should conduct the VCOC or 25% test analysis, as applicable, and deliver the applicable certification to their limited partners.

If a “feeder fund” for investors with a particular tax profile was established to invest in a “master fund,” it is possible that the feeder fund might be designed to hold plan assets of ERISA investors. In such case, it may be necessary to update any mandatory disclosure pursuant to Section 408(b)(2) of ERISA (if applicable) regarding direct and indirect compensation for services, if any, relating to the feeder fund. In the case of a new master fund that intends to operate as a VCOC but has not yet made its first investment, updated disclosure to comply with Section 408(b)(2) of ERISA (and possibly other reporting requirements applicable to ERISA investors) may be required, particularly if expenses or management fees were paid by any ERISA investors before the first investment has been made. The circumstances pertaining to each master and feeder fund differ, and counsel should be consulted regarding compliance with any applicable disclosure requirements.

TIC REPORTING

U.S. private fund sponsors (and non-U.S. private fund sponsors that manage U.S.-domiciled funds) that have portfolio investments in foreign issuers, have issued interests in their funds to foreign residents or have claims on or liabilities to foreign residents may be required to report those transactions to the Federal Reserve Bank of New York on the Treasury International Capital (TIC) system through the filing of one or more of the following forms:

- TIC Form SLT – requires U.S. resident entities to report investments in foreign long-term securities (*i.e.*, securities with a maturity of more than one year) and long-term securities issued by such U.S. resident entities to foreign persons equal to $1 billion or more.
- TIC Form B – requires (subject to certain thresholds) the reporting of information on certain claims and liabilities (including loans and short-term debt instruments) of U.S. financial institutions with non-U.S. persons.
- TIC Form S – requires U.S. resident entities to report purchases and sales of long-term securities with foreign entities if, during any month, such transactions equaled $350 million or more in the aggregate.

FORM BE-13

The U.S. Bureau of Economic Analysis (BEA) requires a U.S. entity, including a private fund domiciled in the U.S., to make a filing on Form BE-13 if a non-U.S. person acquires ownership of 10% or more of its voting securities and the cost of acquiring such securities is more than $3 million.[10] The BEA generally does not consider limited partner interests or non-managing member limited liability company interests to be voting securities, so most U.S. funds with foreign investors would not have to file. However, general partner/managing member interests generally are considered voting securities for purposes of Form BE-13. Therefore, a fund domiciled in the U.S. that has a general partner domiciled outside the U.S. generally would be required to file. In addition, if a non-U.S. fund owns 10% or more of the voting securities of a U.S.-domiciled portfolio company, the portfolio company generally would have to file. Reports are required to be filed within 45 days of a reportable transaction. A U.S. person must file a Form BE-13 for a reportable transaction even if not directly requested to do so by the BEA. After an initial BE-13 filing is made, the BEA requires quarterly, annual, and five-year benchmark filings.

EUROPEAN UNION AND UNITED KINGDOM REGULATION OF THE PRIVATE EQUITY INDUSTRY

Directive 2011/61/EU on Alternative Investment Fund Managers (AIFM Directive) has been implemented into the national laws of all key European Economic Area (EEA) member states and similar provisions apply in the United Kingdom (UK) following Brexit under the Alternative Investment Fund Managers Regulations (AIFMR). Managers bringing funds to the market in the EEA and/or the UK have to comply with the AIFM Directive and/or AIFMR (as applicable) and their varied implementation across the different jurisdictions. The AIFM Directive and/or AIFMR (as applicable) subject EEA and UK private fund managers and private fund managers using EEA and UK fund vehicles to certain operational and organizational requirements.

The AIFM Directive and AIFMR also impact U.S. (and other non-EEA) private fund managers that market fund interests to investors in the EEA and/or the UK by imposing a subset of the full AIFM Directive rules upon them. In particular, such managers become subject to certain ongoing compliance requirements including disclosure and reporting obligations, restrictions on extracting capital from EEA/UK portfolio companies and other measures designed to improve transparency when acquiring EEA/UK portfolio companies. In each jurisdiction which has implemented the AIFM Directive there is a separate private placement regime governing the registration requirements for that particular jurisdiction - some require a straightforward notification, while others require an application to be submitted, with approvals from regulators being necessary prior to marketing to investors in the relevant jurisdiction. Some EEA jurisdictions have supplemented the AIFM Directive's minimum requirements for non-EEA private fund managers with additional obligations such as, in the case of Denmark and Germany, the appointment of a depositary to monitor the fund's investments and cash flows and to carry out certain general oversight

[10] If the 10% threshold, but not the $3 million threshold, is crossed, a BE-13 Claim for Exemption must be filed.

functions. In the case of other jurisdictions, such as Austria and France, workable private placement regimes have not yet been implemented and therefore the only way for U.S. (and other non-EEA) private fund managers to admit investors from such jurisdictions is following a genuine reverse solicitation fact pattern or in certain other limited circumstances such as if a country-specific exemption applies. Private fund managers will have to carefully plan their marketing campaigns and register for marketing (by way of notification or application, as applicable) in any relevant EEA jurisdictions and/or the UK in good time. For those jurisdictions where an approval is required, the applications should be submitted well in advance of anticipated marketing efforts commencing since regulators in some EEA jurisdictions have been taking several months to approve marketing, while in others the process can be completed in a matter of days or weeks. In addition, fund managers will be required to carry out a short form compliance process to ensure they are ready to meet the European reporting requirements. We are currently assisting a significant number of U.S.-based and global private fund managers in making applications to EEA/UK regulators for approval under the AIFM Directive's private placement regimes in a variety of EEA jurisdictions and the UK.

In addition to the above, Directive (EU) 2019/1160 and Regulation (EU) 2019/1156 on the cross-border distribution of collective investment undertakings, which have applied from August 2021, make various changes to the AIFM Directive, including requiring EEA fund managers marketing funds to EEA investors to make notifications to local regulators within 2 weeks of beginning "pre-marketing" (*i.e.*, engagement with investors in order to test their interest in a fund which is not yet established, or which is established, but not yet notified for marketing) to such investors. Although Directive (EU) 2019/1160 is silent on whether non-EEA fund managers are required to make such pre-marketing notifications, certain EEA jurisdictions (currently Germany, Finland, the Netherlands and Luxembourg) have taken a gold-plating approach, requiring non-EEA managers marketing funds in these jurisdictions to submit pre-marketing notifications.

Upon submission of such pre-marketing notifications in any of Germany, Finland, the Netherlands or Luxembourg, non-EEA managers will not be able to rely on reverse solicitation to admit investors from these jurisdictions for a period of 18 months from submission. This rule applies to the fund that has been notified for pre-marketing and any fund with a similar strategy (*i.e.,* the rules capture parallel fund sleeves as well).

On November 10, 2023, the text of an amending directive that will make amendments to the AIFM Directive was published, referred to as "AIFMD II". Most of the changes apply to all EEA managers but currently, only the proposed changes with respect to pre-contractual disclosures and ongoing reporting will be relevant for non-EEA managers marketing funds under national private placement regimes. Such changes, if implemented, will slightly broaden the disclosure and ongoing reporting requirements. AIFMD II is likely to be approved in February 2024 and come into effect in 2026.

We are seeing an increasing interest from U.S. (and other non-EEA) private fund managers and their investors in establishing parallel fund structures based in the EEA that can access the AIFM Directive's single market passporting regime. We would be happy to discuss options with you on a case-by-case basis in due course.

The UK left the European Union (EU) and the EEA on January 31, 2020 under the terms of a withdrawal agreement (which established an implementation period within which aspects of EU law would continue to apply in the UK until December 31, 2020). While the terms of the withdrawal agreement did not include a deal regarding the trade of goods and services between the UK and the EU, the UK reached a separate agreement with the EU regarding such matters on December 24, 2020. Nonetheless, the Brexit deal is limited for financial services and therefore the future application of EU-based legislation to the private fund industry in the UK and the EU will ultimately depend on how the UK renegotiates its financial services relationship with the EU.

There are currently a series of initiatives at the EU level to implement the EU's Action Plan on Financing Sustainable Growth. Regulation (EU) 2019/2088 on Sustainability-related disclosures in the financial services sector (SFDR) was published on December 9, 2019 and entered into force on December 29, 2019. The purpose of the SFDR is to achieve more transparency around how financial market participants incorporate consideration of sustainability risks (defined as any environmental, social or governance event or condition that, if it occurs, could cause a negative material impact on the value of the investment) into their investment decision-making processes. Under the SFDR, fund managers may be required to provide certain disclosures in pre-contractual documentation and on their websites on the manner in which such sustainability risks are accounted for and integrated into their investment decision-making process and the potential impact of sustainability risks on the returns of their funds.

The EU has also implemented the Sustainable Finance Taxonomy Regulation (Taxonomy Regulation), which is designed to create a benchmark and framework for green products and to standardize the concept of environmentally sustainable investment across the EU in order to provide investors with more transparency regarding a financial product's environmental sustainability. The regime began to apply in practice from January 1, 2022. The Taxonomy Regulation amends the SFDR to require fund managers to disclose either: (i) information on how and to what extent the investments that underlie their products support economic activities that meet the four criteria for environmental sustainability under the Taxonomy Regulation; or (ii) for financial products that do not invest in taxonomy-compliant activities, a statement that they do not take the Taxonomy Regulation into account.

In order to comply with the four tests for environmental sustainability, an economic activity must: (i) contribute substantially to at least one of the environmental objectives listed in the Taxonomy Regulation; (ii) "do no significant harm" to any of the other environmental objectives listed in the Taxonomy Regulation; (iii) be carried out in compliance with minimum social and governance safeguards; and (iv) comply with technical screening criteria to be adopted under the Taxonomy Regulation.

On November 28, 2023, the Financial Conduct Authority (FCA) published its Policy Statement (PS23/16) setting out its final rules on UK Sustainability Disclosure Requirements (SDR) and investment labels, the implementation of which will be phased. The SDR is widely seen as the UK's answer to the EU's SFDR, however the scope of the UK's SDR is less broad in that, at present, the requirements will only apply to UK managers that manage UK-domiciled funds. It is noted however that the EU's SFDR is currently under review by the European Commission and they may take into account the approach taken under the UK's SDR with respect to any future reform.

CAYMAN ISLANDS PRIVATE FUNDS ACT

All private funds registered under the Cayman Islands Private Funds Act must (i) pay an annual registration fee of CI$3,500 (US$4,268) by January 15 of each year and (ii)(A) have their accounts audited annually by a Cayman Islands-based auditor approved by the Cayman Islands Monetary Authority (the Authority) and (B) submit its audited accounts, along with the Fund Annual Return, to the Authority within six months of the end of each fiscal year. In addition, effective October 14, 2023, all private funds are required to adopt a corporate governance framework and convene a meeting of the private fund's governing body at least once a year with appropriately documented agendas and minutes of decisions reached.

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